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In re Application of : NOTIFICATION
STARK et al. :
Application No.: 10/580,129 :
PCT No.: PCT/EP2004/010970 :
Int. Filing Date: 01 October 2004 :
Priority Date: 19 November 2003 :
Attorney Docket No.: 026032-5027 :
For: VEHICLE SEAT :
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This application is before the Office of PCT Legal Administration for consideration of matter arising under 35 U.S.C. 371.

BACKGROUND

On 01 October 2004, applicant filed international application PCT/EP2004/010970, which designated the United States and claimed a priority date of 19 November 2003. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 02 June 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 19 May 2006.

On 19 May 2006, applicants filed a transmittal letter for entry in to the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee, a translation of the international application into English, and a declaration of inventors.

DISCUSSION

37 CFR 1.41(a)(4) states:

The inventorship of an international application entering the national stage under 35 U.S.C. 371 is that inventorship set forth in the international application, which includes any change effected under PCT Rule 92bis. See § 1.497(d) and (f) for filing an oath or declaration naming an inventive entity different from the inventive entity named in the international application, or if a change to the inventive entity has been effected under PCT Rule 92bis subsequent to the execution of any declaration filed under PCT Rule 4.17(iv) (§ 1.48(f)(1) does not apply to an international application entering the national stage under 35 U.S.C. 371).

The declaration filed 19 May 2006 does not list the inventorship set forth in the international application. The declaration identifies three inventors while the international

application identifies only two inventors. A Form PCT/IB/306 (NOTIFICATION OF THE RECORDING OF A CHANGE) from the International Bureau indicating that an inventor has been added does not appear in the file. Accordingly, the inventorship in the national stage is the inventorship set forth in the international application and the declaration filed 19 May 2006 is not sufficient.

CONCLUSION

Applicants are required to file a declaration in compliance with 37 CFR 1.497(a)-(b) naming the proper inventive entity, or a proper change of inventorship under 37 CFR 1.497(d), or a Form PCT/IB/306 indicating a change effected under PCT Rule 92^{bis} corresponding to the declaration filed 19 May 2006, within TWO (2) MONTHS from the date of mailing of this decision. Extensions of time may be obtained under 37 CFR 1.136(a). Failure to timely file a proper reply will result in abandonment of the application.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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